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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION

In re:

JAMIE LYNN GALLIAN,

Debtor.

Case No. 8:21-bk-11710-SC

Chapter 7

Adv. No. 8:21-ap-01095-SC

**MOTION TO CONTINUE PRE-TRIAL
CONFERENCE**

THE HUNTINGTON BEACH GABLES
HOMEOWNERS ASSOCIATION, a California
nonprofit mutual benefit corporation,

Plaintiff,

vs.

JAMIE L GALLIAN, an individual; RANDALL
L NICKEL, an individual, and DOES 1 through
100, inclusive,

Defendants.

Pre-Trial Conference

Hearing Date: September 27, 2022

Time: 1:30 p.m.

Courtroom: 5C

**TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES
BANKRUPTCY JUDGE, AND ALL PARTIES ENTITLED TO NOTICE:**

This Motion to Continue Pre-Trial Conference (the “Motion”) is filed by Plaintiff, The Huntington Beach Gables Homeowners Association (“Plaintiff”). This Motion is made with reference to the following recitals:

RECITALS

1. On or about July 9, 2021, Jamie Lynn Gallian (“Debtor”) filed a voluntary petition under Chapter 7 of the Bankruptcy Code.

2. On October 18, 2021, Plaintiff filed a Complaint (the “Complaint”) to (1) Set Aside Voidable Transfer; (2) for Declaratory Relief Establishing Validity of Lien, (3) to Object to Discharge Under Section 523(a)(2) (Actual Fraud), and (4) to Object to Discharge Under Section 727(a)(5), initiating the above captioned adversary proceeding on October 18, 2021 (the “Adversary Proceeding”).

3. Defendant Randall Nickel was named as a defendant in only Claim 1 for Relief as the transferee of a fraudulent transfer for the real property located at 4476 Alderport Drive, Unit 53, Huntington Beach, California 92649 (“Unit 53”), which is the predicate question for Plaintiff’s Claim 3 against Debtor under *Husky Intern. Electronics, Inc. v. Ritz*, 136 S. Ct. 158 (2016), in which the Supreme Court held that a fraudulent transfer is fraud within the meaning of Section 523(a)(2) of the Bankruptcy Code.

4. On October 28, 2021, Debtor filed her answer to the Complaint. (Docket No. 4.)

5. On October 28, 2021, Debtor filed multiple amended answers to the Complaint (Docket Nos. 5, 6, and 7.)

6. On November 16, 2021, Defendant Randall Nickel filed a Motion to Dismiss the Complaint as to himself for lack of jurisdiction. (Docket No. 9.)

7. On January 27, 2022, the Court granted Mr. Nickel’s motion to dismiss for lack of jurisdiction on the ground, at that time, that only the Chapter 7 Trustee may seek to avoid a fraudulent transfer of Unit 53. (Docket No. 32, at 2.)

1 8. Since that time, on August 25, 2022, the Chapter 7 Trustee in the Main
2 Bankruptcy Case has filed his Notice of Intent to Abandon Estate's Interest in Claims against
3 Randall L. Nickel Relating to the October 2018 Transfer of the Debtor's Interest in the Property
4 Commonly Known as 4476 Alderpoint Drive, #53, Huntington Beach, California 92649 (Main
5 Bankruptcy Case, Docket No. 201) ("Notice of Abandonment"). If, by September 12, 2022,
6 there are no objections to the Notice of Abandonment, then the Plaintiff's Claims against Mr.
7 Nickel for fraudulent transfer of Unit 53 will again be the Plaintiff's to prosecute, and the
8 Plaintiff may seek to re-join Mr. Nickel as a necessary Defendant in this Action. Plaintiff needs
9 additional time to assess next steps to potentially amend the Complaint and include Mr. Nickel
10 as a defendant given the significantly-altered posture of the case.

11 9. In the interest of efficiency for all parties and the Court, Plaintiff would like to
12 continue the pre-trial conference for at least sixty (60) days or as the Court deems appropriate so
13 that the Plaintiff may seek leave to amend the Complaint, if advisable.

14 10. The Motion does not constitute a waiver of any rights.

15 **WHEREFORE**, based on the foregoing recitals, Plaintiff requests the hearing on the Pre-
16 Trial Conference to be continued for at least sixty (60) days or as the Court deems appropriate.

17 Dated: September 2, 2022

Respectfully submitted,

GOE FORSYTHE & HODGES LLP

By: /s/ Brandon J. Iskander

Robert P. Goe
Brandon J. Iskander
Attorneys for Huntington Beach Gables
Homeowners Association

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 18101 Von Karman Avenue, Suite 1200, Irvine, CA 92614

A true and correct copy of the foregoing document entitled (*specify*): **MOTION TO CONTINUE PRE-TRIAL CONFERENCE** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) September 2, 2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Robert P Goe kmurphy@goeforlaw.com, rgoe@goeforlaw.com;goeforecf@gmail.com
- Jeffrey I Golden (TR) lwerner@go2.law, jig@trustesolutions.net;kadele@go2.law
- Brandon J Iskander biskander@goeforlaw.com, kmurphy@goeforlaw.com
- Mark A Mellor mail@mellorlawfirm.com, mellormr79158@notify.bestcase.com
- United States Trustee (SA) ustpregion16.sa.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL:

On (*date*) September 2, 2022, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows: Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Jamie Lynn Gallian
16222 Monterey Ln Unit 376
Huntington Beach, CA 92649

Michael D Poole
Feldsott & Lee
23161 Mill Creek Dr Ste 300
Laguna Hills, CA 92653

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL:

(*state the method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) September 2, 2022, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows: Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

- The Honorable Scott Clarkson, USBC, 411 West Fourth Street, Santa Ana, CA 92701
- (SUSPENDED DUE TO COVID-19 PROTOCOLS)

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 2, 2022

Susan C. Stein

/s/Susan C. Stein

Date

Printed Name

Signature